

Everytown for Gun Safety Support Fund et al. v. Bureau of Alcohol, Tobacco, Firearms
and Explosives et al., No. 21-CV-00376

Dear Judge Carter:

The parties in the above-captioned case jointly request permission to file early cross-motions for summary judgment.

By way of brief background, Plaintiffs in this case are the State of Illinois, the City of Kansas City, Missouri, and Everytown for Gun Safety Support Fund (“Everytown”), which is headquartered in the Southern District of New York. Defendants are the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) and Regina Lombardo, the acting head of that agency. The Complaint was filed on January 15, 2021, and both Defendants were served by January 22, 2021. The Complaint includes two claims for relief under the Administrative Procedure Act (“APA”) related to ATF’s issuance of a Federal Firearms License (“FFL”) to JA Industries LLC, a firearms manufacturing business owned by Paul Jimenez (“Jimenez”).

Early summary judgment practice is routine in APA cases, *see, e.g., Clean Air Carolina v. U.S. Dep’t of Transp.*, No. 17-CV-05779, 2017 WL 5157469, at *1 (S.D.N.Y. Sept. 14, 2017), and Federal Rule of Civil Procedure 56(b) allows for a motion for summary judgment to be filed at any time. Early summary judgment is especially appropriate here because APA cases are exempt from initial disclosure requirements, Fed. R. Civ. P. 26(a)(1)(B)(i), 26(f)(1), and Plaintiffs seek no discovery from Defendants beyond the relevant administrative records, which Defendants have agreed to produce in the interest of expeditious resolution of this matter.

In light of the foregoing, counsel for both parties have conferred concerning an expedited schedule, and have agreed that the most efficient way to resolve this case is on early cross-motions for summary judgment. Specifically, the parties have agreed to the following schedule, subject to the Court’s approval: (a) Defendants will produce the administrative record by April 23, 2021; (b) Plaintiffs will file their motion for summary judgment by June 25, 2021; (c) Defendants will file their cross-motion for summary judgment and opposition by July 26, 2021; (d) Plaintiffs will file their reply and/or opposition in a single brief by August 27, 2021; and (e) Defendants will file their reply by September 17, 2021. The parties have agreed that all motions and cross-motions for summary judgment shall be limited to 25 pages, and that all replies shall be limited to 15 pages.¹ Additionally, and subject to the Court’s approval of this proposed schedule, the parties have agreed to waive the requirement that Defendants answer or otherwise respond to the pleadings, to the extent necessary, until after the summary judgment motions are decided.

¹ The parties have stipulated to these page limits without knowing the size of the administrative record. To the extent the record is larger than expected and longer briefing is required, the parties will seek leave of this Court to expand these page limits.

Accordingly, the parties respectfully request that the Court endorse their proposed briefing schedule, and that the Court stay Defendants' time to answer Plaintiffs' complaint until the disposition of the parties' summary judgment motions.

Dated: March 19, 2021

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